



Hyperoptic Response to Ofcom Video Relay Further Consultation

March 2021



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Response summary

Hyperoptic welcome the opportunity to respond to the further Ofcom consultation on Emergency Video Relay. As in our previous response on this subject, we recognise that an emergency video relay service would allow BSL users to communicate in their first language when making critical contact with the emergency services and allow the BSL user to receive potentially life-saving instructions as well as being of great benefit to the emergency services.

We are however concerned that within the proposals there is scope for creating consumer confusion, thus reducing the overall benefit to BSL users. Consumer confusion could arise in the event that there was more than one approved video relay service as well as from the fact that although the service relates to accessing emergency services, it would not have the exact same level of regulatory protection that traditional access to emergency services benefit from.

Proposal that regulated providers should be required to either provide emergency video relay or contract for it to be provided

We are concerned that the current proposal from Ofcom leaves scope for customer confusion in that it leaves room for multiple services to be approved. In its response to BT's concerns about the possibility for confusion, Ofcom acknowledge that a single supplier would reduce the risk of consumer confusion, pointing to the statutory process for approval that would seem to preclude this.

By their very nature, video relay calls will increase the time of a call to emergency services because they add it a third person and the requirement to translate between BSL and English. Further delay caused by customer confusion could be detrimental to the ability of emergency services to respond to an incident in a timely manner. Therefore, we believe that at a minimum Ofcom must do more in order to reduce the scope for consumer confusion. It is possible that due to the 'safety of live' nature of the service, there are competing obligations under law that may permit Ofcom to give approval to one service provider. For example when discussing resilience, Ofcom refer to the principle of equivalence of access for disabled end-user. Other users of emergency services would not be subject to differing services / user experiences when accessing emergency services, a disabled user should be no different. At a minimum Ofcom could



set very specific criteria about the operational implementation of an emergency video relay service so that any app or website under the service would have the same layout. This would ensure that consumers would not be required to familiarise themselves with a new service when they move provider or when attempting to contact emergency services.

We suggest that in order to reduce the risk of customer confusion as to the nature of the service, Ofcom oversee industry wide customer communications such that consumers who switch between providers do not receive conflicting information about emergency video relay.

We welcome Ofcom's clarification that providers will not be required to provide access to emergency video relay where a customer has been suspended for non-payment. This however leaves uncertainty about how such a service should be portrayed to customers. On the one hand given that net neutrality principles preclude treating internet traffic differently, accessing the emergency relay service can be no different to accessing any other internet service. On the other hand at para 7.50 Ofcom encourages providers of IAS to consider the particular needs of deaf BSL end-users and provide them with a resilience solution on request where needed. This would seem to effectively equate the service with the requirements for accessing emergency services via 999.

We believe that there may be other cost recovery options that could be considered e.g. to split the cost recovery in proportion to the customer base of providers. Providers with a larger base are likely to have more BSL customers than smaller providers, it would therefore be proportionate for them to pay a larger share. Whilst this would not provide have the same level of causality between call and payment as when paying for accessing 999, it would provide certainty to a wholesaler that their costs would be recovered and would also give providers certainty as to their share of costs.

We are also concerned that as currently drafted, the proposals would be disproportionately onerous on very small providers if they are required to secure a service provider and negotiate a commercial contract. Therefore, whilst we agree with the proposal that regulated providers provide emergency video relay, we urge Ofcom to do their utmost to ensure that a wholesaler steps forward rather than imposing the obligation as a General Condition and leaving it for industry to develop varying solutions.



Provision of emergency video relay on fair, reasonable and non-discriminatory terms

As set out above, we believe that Ofcom should include specific operational requirements as part of the approval process, such that the risk of consumer confusion is reduced in the event that there is more than one emergency video relay provider.

Zero-rating of data used for emergency video relay and registration

From a policy perspective we agree with Ofcom that the data used to access and use the emergency video relay service should, to the greatest extent technically feasible, be free to the caller. However, we would draw Ofcom's attention to the differing language in para 5.3 where Ofcom refer to "This could be achieved for example through zero-rating the data used when accessing the service via a mobile app or through the use of uncapped data packages" and the proposed wording of the GC which sets out that "Regulated Providers must:

(b) where technically feasible, apply an incremental price of zero to any data traffic associated with the use of the Emergency Video Relay Service"

The proposed wording of the GC would preclude a regulated provider from complying using uncapped data packages. We would ask Ofcom to amend the wording of the GC such that regulated providers can comply using either approach.

For the reasons set out by Ofcom, namely the possibility of leading to harm in time-critical emergency situations we agree that end-users should not be required to register in order to use the emergency video relay service. However we do not believe that end-users should be precluded from doing so, as there are likely to be benefits to the end user as well as to emergency services from registering with the service.

Implementation

With Ofcom only due to publish a final statement in June 2021, a 6-month implementation deadline to December 2021 would not leave sufficient time for providers to comply with the new requirements. In



the October 2020 statement on Implementation of the new European Electronic Communications Code Ofcom set out that they would give providers a period of time of at least 12 months from the final notification containing the revised GCs, to implement the relevant changes. In this instance, it is the publishing of the policy paper that will give providers the information they need in order to take the necessary steps (e.g., negotiate contracts once Ofcom have approved a video relay service provider) to comply with this obligation.

Conclusion

In conclusion, we recognise that an emergency video relay service would allow BSL users to communicate in their first language when making critical contact with the emergency services and allow the BSL user to receive potentially life-saving instructions as well as being of great benefit to the emergency services.

However, as set out above we are concerned that there is scope for creating consumer confusion and thus creating delay in time-critical emergencies creating a real risk of end-user harm. We therefore urge Ofcom to work with Industry to ensure that a wholesaler step forward to ensure that one solution is developed and deployed by all regulated providers. This will remove the scope for confusion and ensure that BSL customers are effectively able to have equivalent access to emergency services.